

REMARKS

In the Office Action dated December 4, 2008, Claims 1, 5, 8–22 and 25 were rejected under 35 U.S.C. §102(b) as being anticipated by KWASNY (WO 02/076852). Claims 2–4, 6 and 7 were rejected under 35 U.S.C. §103(a) as being unpatentable over KWASNY (WO 02/076852) in view of Leoncavello (U.S. 6,305,576). Claims 23 and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over KWASNY (WO 02/076852) and Leoncavello (U.S. 6,305,576) in view of Lipske et. al. (U.S. 3,425,589). Applicant's respectfully traverse these rejections. Reconsideration and allowance in view of the amendments and remarks that follow is respectfully solicited.

The Examiner considers the application to be anticipated by WO 02/076852. (Please also note that this document corresponds to U.S. Patent 7,204,392, which may form a more convenient English translation than the automatic translation of the European Patent Office.) WO 02/076852 is discussed at page 3, line 8 of the Specification. According to WO 02/076852 A1 the inner casing is provided with a conventional cover that requires an O-seal for tightness. Accordingly, this document does not anticipate the feature that the cover is a membrane which seals the inner casing at its can-side end hermetically against the contents of the pressurized can and which is torn open by the push rod when the trigger is actuated. Figures 2, 3 and 6 clearly show that the cover is a conventional lid, not a membrane. However, as the application itself already explains in the case of two-component coating systems, which use aromatics as solvents and polyisocyanates as the second component, the two components migrate, in not insignificant quantities, into the sealing system, especially when storage times are long and/or temperatures are high, which may lead to problems in forcing off the cover. Therefore, one objective of the invention is to optimize the known pressurized cans to make sure that the inner casing forms a unit that is absolutely tight to the contents of the pressurized can. This objective is achieved through the use of a membrane instead of a conventional lid. Therefore, claim 1 is novel.

Moreover, WO 02/076852 does not provide any suggestion to replace the conventional cover by a membrane (cf. col. 2, I. 39 – 45 of U.S. '392). Sealing of the inner sleeve against the can contents in the area of the sleeve cover is explicitly described to be unproblematic. The sealing technique with sealing rings guided in grooves is considered to be stable and practical. The document therefore provides no teaching or suggestion of the claimed invention--and in fact it teaches away.

Moreover, please note that there is a difference between a cover as described in WO 02/076852 that is split-off by actuating the trigger, whereas the membrane according to the invention is torn open and destroyed by the push rod when the trigger is actuated. Therefore the invention relies on a different principal.

Nevertheless, in order to expedite the prosecution of this application and to more particularly claim Applicant's invention, Applicant has amended claim 1 to include the limitation that the membrane forms an integral part of the inner casing, i.e., the inner casing and the membrane are a one-piece design. Regarding support for this amendment in the original disclosure please refer to page 3, lines 25 to 30 of the Specification. The one-piece design ensures a very reliable sealing between the inner casing and the outer parts of the pressurized can. An additional step of connecting the membrane and the inner casing by connecting these pieces later on is avoided. Additional steps of connecting can have the disadvantage that leakages may occur, in particular after a long time of storage. For example, soldering may not be totally leak-proof all over the connecting points between the inner casing and the membrane while adhesives may not be totally resistant to the content of the pressurized can.

Applicant hae also amended claim 1 to include the limitation that the pressure inside the inner casing is lower than the pressure outside the inner casing and the membrane bulges into the inner casing. Regarding support for this amendment in the original disclosure please refer to page 7, lines 6 to 12 of the Specification. The advantage of using a membrane that is capable of bulging out into the inner cylinder is that the membrane contacts the push rod at the point that is nearest to the membrane. This contributes to piercing a large-size hole into the membrane. Accordingly actuating the push rod will result in a very effective and fast destruction of the membrane resulting in a fast mixing of the content of the inner casing and the content of the outer pressurized can. Bulging of the membrane ensures that the membrane rips over a large area. Accordingly, having actuated the push rod the opening of the inner casing is quite large. This phenomenon may be compared to using a needle for a balloon resulting not only in a single small hole in the membrane but in nearly total destruction of the membrane. For the user rapid mixture between the content of the inner casing and the outer can is quite important because most users do not want to wait for a long time after actuating the push rod. The typical user wants to use the pressurized can nearly immediately.

Applicant believes that claim 1 as amended is allowable and allowance of claim 1 is respectfully requested. Claims 2 to 25 depend either directly or indirectly from claim 1 and, thus, are also believed to be allowable. The allowance of claims 2 to 25 is also respectfully solicited.

If for any reason the Examiner believes that prosecution of this application would be advanced by contact with the Applicant's attorney, the Examiner is invited to contact the undersigned at the telephone number given below.

Respectfully submitted,

Dated: March 4, 2009 By:


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